



Tombonuo of Sungai Eloi, Pitas Community Protocol

Oturan nu Tombonuo, Sungai Eloi, Pitas

**Mangrove Management Practices of the
Tombonuo Community in Sungai Eloi, Pitas**

2018

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Sungai Eloi Community & PACOS Trust

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We are only borrowing the available resources from the next generation, and we have to return it to them when the time comes, in good condition...The journey of a thousand miles has to start with the first step...It is not easy to have an easy life, but it is not hard to have a hard life.
-Mastupang Somoi, Sungai Eloi, Pitas, 2014

Contents

Glossary	5
Foreword	6
Background	8
1) Introduction	9
a) Identity and History of the Tombonuo Community in Sungai Eloi, Pitas	9
b) Relationship Between Culture, Language, Territory and Practices ..	10
i) Community Mangrove Resources	10
ii) Traditional Practices	11
a. Resource Collection	11
b. Sacred Sites	11
c. <i>Momokan</i> Ritual	12
2) Mangrove Resource Management System of the Tombonuo Community in Sungai Eloi, Pitas	14
a) Rules	14
3) Challenges and How to Overcome Them	16
a) Challenges	16
b) Community Initiatives	18
4) Community Hopes	18
Annex	20
Rights of the Sungai Eloi Tombonuo Community	20
a) International Laws	20
b) Sabah State Laws	23
c) Sungai Eloi Tombonuo Community Protocol on Resources	24

Glossary

Tombonuo Language	Meaning in English
<i>Gogoropuod</i>	Crecent moon
<i>Giuk</i>	New moon on the 7th day
<i>Kotang</i>	New moon on the 8th day
<i>Morosakit</i>	Last moon phase before new moon
<i>Ingopat-gopat</i>	Anak bulan hari ke-3
<i>Pongogom</i>	After full moon
<i>Pongoluon</i>	A type of barracuda fish
<i>Momokan</i>	Ceremony to communicate with natural entities by bringing food to sacred sites to entertain the entities found there
<i>Mongapit</i>	Send tobacco warp
<i>Inutusan</i>	Tobacco cigarette
<i>Tinuduan</i>	Betel leaf wrapped around betel nut, chalk and gambier
<i>Rinantai</i>	Supporting
<i>Mongobabar</i>	Communicate with natural entity
<i>Babar</i>	The wish to be conveyed to the natural entity or spells
<i>Iningoladan</i>	Customary territory
<i>Binondaan</i>	Prohibited area
<i>Kopongoraa</i>	Giving chicken and copper bracelet or pig for sogit/wrongdoer
<i>Umo Sobulud</i> <i>Mongumpian</i> <i>Mongogang</i>	Hill paddy
<i>Bogasu</i>	Hunting
<i>Lolokui</i>	Snare
<i>Bangkau</i>	Spear
<i>Mongambur</i> <i>Morawoi</i> <i>Abu-abu</i>	Fishing
<i>Toggiis</i>	Fishing in the ocean
<i>Monagat</i>	Looking for shellfish
<i>Rusap-Rusapan</i>	Traditional medicine

Foreword

Sabah is blessed with incredible cultural and biological diversity as well as legal pluralism. As the Chief Judge of the High Court of Sabah and Sarawak and the Chairman of the Native Laws, Materials and Cases Committee, respectively, and as proud Indigenous people ourselves, we know first-hand that respect for this diversity requires recognition of the deep connections between Indigenous peoples, our customary laws and the environments upon which we depend. It also requires recognition of the diverse worldviews, rights and responsibilities of Indigenous peoples, including to protect and maintain our customary territories and ways of life and to define our own development paths.

This community protocol, developed through an intensive participatory process over more than three years, is an embodiment of this cultural, biological and legal diversity. It showcases how closely the community's identity, culture, *adat* and ways of life depend upon their territory and natural resources, and how much they want to sustain them for current and future generations. The protocol also does not shy away from the realities on the ground. The community is facing challenges, but they set out how they would like to address those challenges in a respectful manner, drawing on customary, state and international law.

As lawyers and judges, we know that procedural rights of access to information, participation in decision-making and access to justice are also crucial to upholding the rule of law and achieving sustainable development. Under international law, all stakeholders have the responsibility to respect Indigenous peoples' right to provide or withhold free, prior and informed consent before any activities that may affect them or their territories. In any situation of disagreement or conflict, it is incumbent upon all parties to listen respectfully and seek a fair, equitable and culturally appropriate resolution.

Every living being on Earth depends on a healthy environment for survival and well being. Indigenous peoples are often on the frontlines of efforts to protect, conserve and restore the environment. However, they are also increasingly under threat for the same efforts. Everyone has a responsibility to defend and support those who are defending the environment - for their sake and ours, and for the sake of the planet.

Overall, this community protocol illustrates the strength and resolve of Sabah's Indigenous peoples and the importance of supporting them to share in their own voices their plans, priorities and visions for the future. Through the participation of community representatives in meetings of the Native Laws, Materials and Cases Committee, we have heard their story personally and commend them for their efforts. They are leaders not just within their communities but also in Sabah and Malaysia as a whole. We acknowledge and applaud this community and others in Sabah who have taken the time and care to document their *adat* and protocols. They are a source of pride and strength for our people and we encourage all fellow Sabahans and Malaysians to join us in supporting them.



Tan Sri Datuk Seri Panglima Richard Mananjung
Chief Judge of Sabah and Sarawak



Datuk Douglas Cristo Primus Sikayun
Retired High Court Judge of Sabah and Sarawak
Chairman of Native Laws, Materials and Cases Committee

Background

This community protocol made by the Sungai Eloi community is meant to document the traditional knowledge and mangrove management practices of the Tombonuo ethnic in Sungai Eloi. It is a result of community documentations and inputs from community representatives during community workshops organized by PACOS Trust with funding from the Commonwealth Foundation from 2015 to 2018.

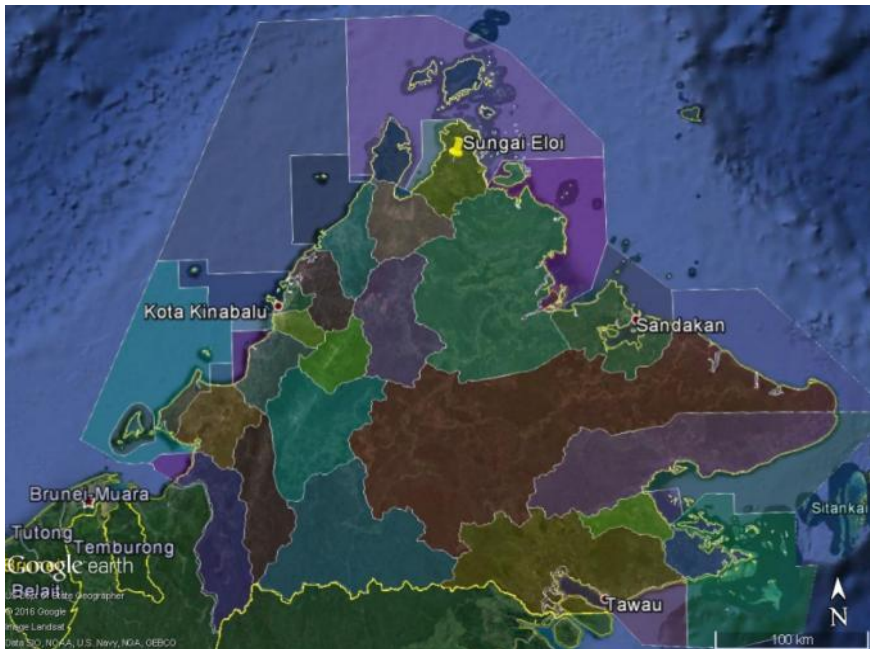
Several people have contributed to the production of this community protocol. First and foremost, acknowledgement is given to the community representatives who have provided input and carried out the documentation. We also would like to thank PACOS Trust and all individuals who have directly or indirectly contributed to the realization of this community protocol.

This protocol has been consolidated and refined by the PACOS Trust team and has gone through a review process with community representatives to ensure the information contained within is authentic and is truly according to the views and wishes of the community.

1) Introduction

a) Identity and History of the Tombonuo Community in Sungai Eloi, Pitas

Sungai Eloi is found in the district of Pitas, Sabah, about 4 hours from Kota Kinabalu City in the upstream mangrove areas of the Telaga River. The population of Sungai Eloi Village is around 418 people (2017 census), where a majority are Tombonuo who practise Christianity or other religions but still practise traditional Tombonuo beliefs and culture.



Map showing location of Sungai Eloi, Pitas.

In the beginning, the village was known as Sungai Ayo (which means big river) where the river flowed from Timbou Hill (Seraya Merah Hill) to the mouth of Telaga River in Marudu Bay. In 1900, the name was changed to Sungai Eloi in honour of a courageous individual by the name of Iloi. According to our ancestors, Iloi had his own boat and pier. Anybody who wanted to borrow his boat had to ask for permission and he would bring his

boat down from land to the pier himself because the size of the boat was very big (9 length of pinky finger to thumb and 5 arm lenght). Not a single person could carry the boat but Iloi himself. This has made Iloi a well respected and redoubtable person for his strength. As a result of community discussions and approval, the name Sungai Eloï was registered during the opening of the USNO party branch on 07.05.1963.

b) Relationship Between Culture, Language, Territory and Practices

i) Community Mangrove Resources



The Tombonuo are very reliant on mangrove resources.

Mangrove areas are the main source of food and income for villagers here. They are rich in various sources of protein (crab, shellfish, fish, deer, wild boar, etc.), medicine, vegetables, building materials, firewood, coal and ingredients for making traditional drinks. These areas are also important habitats for proboscis monkeys (*Nasalis larvatus*), bees, false gharials

(*Tomistoma schgellii*), sun bears (*Helarctos malayanus*) and various species of birds.

Mangrove wood also provide a source of income, where we will sell mangrove resources such as *landing-landing* (*Scyphiphora hydrophyllacea*), *tegar* and *santing* to be used as building materials. Mangrove tree barks are also sold to be made into paint, cloth dyes and belts.

ii) Traditional Practices

For us, the mangroves are not only a source of livelihood and income, but also a symbol of our identity as Tombonuo in Sungai Eloï because our history and cultural heritage is very closely related to the mangroves. There are various traditional practices that we still practise in this area.

The mangrove forests serve as a guide or calendar to us in carrying out our daily life such as in agricultural and fishing activities. We refer to the changes in the mangrove forest. For example, if the mangrove trees bear lots of fruit, there will also be a lot of agricultural produce; if the *santing* trees bear flowers, that signals the season when crabs lay eggs; if it's the season when the high tide at night ends quickly, it signals a short rainy season and vice versa.

a. Resource Collection

For the Tombonuo, every resource that we want to take has their specific time. For example, house building materials cannot be taken when the moon is at *gogoropuod*, *giuk*, *kotang*, or *morosakit* because it can cause sickness or death to the house residents. Fishing activities are also guided by the moon, fishing from *ingopat-gopat* to *pongogom* is the most suitable time as the high tide is slow and there's more time to find *pum-pun* (bait). We also believe that between the months of March to April are the season for *koritan* (shark) and *Pongoluon*. This time is the season for harvesting paddy.

b. Sacred Sites

Knowledge of sites believed to be sacred has been passed down from generation to generation. We believe that these sites have to maintained

and protected, because disaster may come if they are disturbed, destroyed or disrespected. It has already been proven through events or incidents that have occurred in these sacred sites.

If we or an individual has a problem or a wish, we can go to these sacred sites and carry out a ritual called 'Momokan' or 'Mongapit' so that the natural entities can help us in dealing with the problem or achieving the wish we have and also maintain the relationship between humans and the natural entities.

Each sacred site has its own entity and there are villagers or individuals who are gifted in these places, they know the names and have a relationship with the entities. In the mangrove areas there are a number of sacred sites such as; *Liwotung Radap*, *Watu Nu Ontoh*, *Watu Pongondalan*, *Watu Togonok* and *Watu Gumpa*.

c. *Momokan* Ritual

If we or an individual has a problem or wish, we can go to a sacred site and carry out the ritual, *Momokan* or *Mongapit*, so that the natural entity can help us in facing the problem or achieving the wish as well as maintain the relationship between humans and natural entities.

The *Momokan* ritual is also conducted to prevent any disaster from happening, such as encroachment and destruction of the sacred site and community customary territory.

This ritual is conducted by a *Bobolian* or someone who has the skill to communicate with natural entities in sacred sites.

Before we go to the sacred site to carry out the *Momokan* ritual, there are a few things that need to be done or prepared to be brought to that place. This includes; *inutusan*, *tinuduan*, traditional food (*kuih pinaram*, *batol* (rice wine), bread, boiled chicken eggs and other food items according to one's choosing), one white chicken and 'pandi' (white cloth).



The *Momokan* ritual is carried out when we wish to ask the natural entity for help in protecting the mangroves from encroachers and destruction, and to maintain the relationship between humans and nature.

Once we reach the sacred site, we will make *rinantai-rinantai* from branches to place the food brought with us. While gathering the materials needed to make *rinantai*, *mongobabar* must be done to request the permission from the tree guardian to avoid anything bad from happening.

After the food is served or placed on the *rinantai*, the *Momokan* ritual can begin. While the ritual is carried out, anybody with a wish can do so through their *babar* to the natural entity. In this area, all who enter are not allowed to make any noise or do anything that could offend the natural entities to prevent anything bad from happening to them.

After the ritual is completed, a representative who will walk behind everybody else will 'mongobasa muli' (ask permission to leave) to the natural entity.

2) Mangrove Resource Management System of the Tombonuo Community in Sungai Eloi, Pitas

The villagers of Sungai Eloi have also specified areas of *Iningoladan* and *Binondaan*. *Iningoladan* areas refer to the whole customary territory while *Binondaan* refers to areas that are protected where any activities of resource collection is prohibited.

Management and care of mangroves are done by the community ourselves. We have made a community protocol for managing the mangroves based on village customary laws that have to be followed by both villagers and outsiders. In this protocol, there is guidance on how to use the mangroves and also rules that have to be followed when entering the forest.

Visitors and outsiders have to get permission from the action committee and village leaders based on free, prior and informed consent (FPIC) and respect Indigenous peoples rights. Those who are found to have violated the protocol will be charged with *Kopongoraa* and a fine. They will also be required to replace the resources they have damaged or taken by twice the amount.

a) Rules

Management and control over the *Iningoladan* area is in the hands of the community. The identification of *Binondaan* (conservation) areas are based on customary use and its management is based on customary law.

i. Traditional System:

- *Inindoi*
 - Wood trees that have been left alone – marks land boundaries (NCR) or cemeteries or have been left alone by ancestors and protected - cannot be cut down by anybody.
 - If it has been cut down, the individual responsible will be charged with *Puraan* where its biggest fine is known as *Bangun* which means replace with a life.

- *Mongobaanda, Binondaan* – a proposed area for the prohibited *Binondaan* area.
- *Mongobumbung* – to mark a fruit or timber tree by cleaning the area around the tree and tying or wrapping thorns onto that tree.
 - If the tree is cut down, *Kopongoraa* and compensation according to the value of the tree will be imposed.
- *Mongindoi* – when clearing a field or own land, valuable trees are not cut down.
 - If cut down, *Kopongoraa* and *Adat Kopatoi* (resulting in death) is imposed.
- *Mongimpuru* – areas that are prohibited such as; rivers, tributaries or springs (water catchments).

ii. Practices when entering the mangroves/taking resources:

- *Babar* – practice of asking for permission from natural entities before taking any resources – such as ‘rusap’ (herb), every tree has its own entity.
- *Kodaaat* – good or bad signs – when entering the forest, need to hear out for signs – for example: sound of birds, there are those if heard, means that whatever is being done must be stopped.
- *Upian* – good or bad signs – before entering the forest, there are several dreams that, if dreamt, mean that your intentions cannot be carried out – for example: dreaming of defecating.
- *Kopupun* – kepunan, when walking to somewhere, do not say you want to eat but in the end do not eat, it can invite misfortune.
- *Ka'bong* – if you want to go fishing or collect resources, do not mention the amount you want to collect before going.

iii. Punishment for those that violate the rules:

- *Idab* (warning)
- *Pura'an* (chicken and copper bracelet, pig)
- *Ukum* or *danda*

- *Monogas* (human)
- Animal or livestock (four-legged; pig, buffalo, cow, goat – 'berdarah atau tidak berdarah', bleeding or not bleeding)
- Slaughtered or given (bleeding or not bleeding) - for example: If somebody's wood or fruit tree is cut, the wood symbolises its own owner. Just as if the owner is cut and blood is drawn, the punishment also requires blood – 'darah dengan darah', blood with blood.

3) Challenges and How to Overcome Them

a) Challenges

The villagers of Sungai Eloï have been faced with the threat of the loss of our customary land since the 1980s from acacia plantations whereby our NCR lands have been included in gazetted SAFODA land which to this day has not been resolved.

Our problem has become even bigger with the implementation of a poverty eradication scheme involving large-scale shrimp cultivation in our area which started in 2012. 2,300 acres of mangrove forests have been cleared and destroyed and about 1,000 acres more is still threatened. As a result of this, the mangrove ecosystem has been impaired, and we are seeing a decline in catch and income.



Our community mangroves have been destroyed to make way for the development of shrimp pond farming.

For us, the main challenge after encroachment is the impairment of the mangrove ecosystem, and the decline in catch and income because our areas for collection of resources is very limited by the destruction of mangrove areas. Villagers are also facing restrictions on our access to resources because we are prohibited from entering our customary territories and this has contributed to our poverty.

Our rights as Indigenous people towards our customary territories has been denied. We were not included in all the plans and our opinions were not taken into account in all decision-making processes. This has caused our traditional knowledge and way of life that is closely related to the mangroves to be threatened and faced with the possibility of disappearing in the future.

In addition, we also face the challenge of leadership where our leaders are appointed instead of being chosen by us through consensus. The appointed

leaders are not in parallel with our wants and aspirations but rather in favor of companies or other interests that affect our rights.

b) Community Initiatives

To protect the mangroves that are threatened, we have taken a few initiatives.

We are promoting the environmental, social and cultural importance of mangroves and its management and care to the government and public. We have been carrying out mangrove tree replanting activities in areas that have been destroyed.

We have also formed an action committee to be the driving force in managing and leading community activities. Through our action committee, we have used and enforced our community protocol to regulate the mangrove area, sent protest letters to related government departments, built networks with the government, non-governmental organizations, academics, media, and five communities who were also affected (Datong, Boluuh, Ungkup, Gumpa and Telaga). Joint monitoring is also conducted in the *Iningoladan* area.

For leadership conflicts, we have tried to reduce or resolve the misunderstandings between the community, our leaders, the company, and the government through dialogue sessions and negotiation processes so that they understand our aspirations better. However, we still continue our efforts in giving awareness on the importance and role in managing natural resources. We use our community protocol to convince the government that we are capable of managing and caring for our resources ourselves.

4) Community Hopes

The mangroves that are still available will be maintained and preserved by us to be passed on to the next generation. Our *Iningoladan* areas will be made an example of community-managed mangroves with the area maintained and a source of income for the community through the rich natural resources and as a community-based eco-tourism spot.

Through documentation of practices in mangrove resource care, it is hoped that awareness can be given to the community, village leaders, and the wider public on the importance of caring for natural resources traditionally and with management by the community themselves. At the same time, it will strengthen traditional resource management practices.

We also hope that our village will be a role model to other communities on community-based management of natural resources and that it will strengthen our ownership as indigenous people in our customary territories.

Through community efforts and programmes related to natural resource management, awareness has been given to the youth not only in conserving and maintaining the beauty of nature but also in being involved in village activities and programmes. With continued exposure, it is hoped we can give birth to youths who are responsible, have strong leadership values and aspires for the community.

Annex

Rights of the Sungai Eloi Tombonuo Community

a) International Laws

- **United Nations Declaration on the Rights of Indigenous Peoples, UNDRIP**

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with Indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indigenous peoples pertaining to their lands, territories and resources,

including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for Indigenous peoples for such conservation and protection, without discrimination.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with Indigenous peoples, Malaysia and the state of Sabah specifically, shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

▪ Convention on Biological Diversity

Article 8(j):

Malaysia and the state of Sabah specifically, shall respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices.

Article 10(c):

Malaysia and the state of Sabah specifically, shall protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.

b) Sabah State Laws

- i. **Sabah Biodiversity Enactment - Section 9(1)(j):** The Sabah Biodiversity Centre shall establish or cause to be establish a system for the protection of biological resources or associated relevant knowledge so that the native and local communities shall, at all times and in perpetuity, be the legitimate creators, users and custodian of such knowledge, and shall collectively benefit from the use of such knowledge.

c) Sungai Elo Tombonuo Community Protocol on Resources

i. *For the community*

- a) Excessive hunting/resource collection is prohibited.
- b) Use of *tuba*/poison/bombs to catch fish is prohibited.
- c) Conducting activities that can disturb wildlife is prohibited.
- d) Conducting activities that have the risk of injuring wildlife is prohibited.
- e) Resource collection in areas that have *tagal* is prohibited.
- f) Cut and plant.
- g) Fine of 1 pig (50kg), buffalo, goat, Rm1500 and replacement of resources that have been damaged by two-fold its value.

ii. *For outsiders*

- a) Visitors must have FPIC (Free, Prior and Informed Consent).
- b) Visitors must respect the rights of Indigenous Peoples.
- c) Entering protected areas without permission is strictly prohibited.
- d) Visitors are prohibited from taking any resources in the protected areas.
- e) Visitors who enter protected areas must be accompanied by the community's committee members.



"We want beauty, not destruction."